

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>June 7, 2017</u>
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KELLY PRICE,

Plaintiff,

v.

THE CITY OF NEW YORK, ROSE PIERRE-
LOUIS, SELVENA BROOKS, INSPECTOR
OLUFUNMILO F. OBE, DETECTIVE LINDA
SIMMONS, OFFICER JOHN STAINES,
OFFICER ISELAINE GUICHARDO
HERMENE GILDO CRUZ, LT. NICHOLAS
CORRADO, LIEUTENANT RAYMOND
DEJESUS, OFFICER EMMET, SERGEANT
SHEVTIZ, MTA OFFICER JOHN DOE, and
MTA OFFICER JANE DOE,

Defendants.
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15 Civ. 5871 (KPF)

ORDER OF SERVICE

KATHERINE POLK FAILLA, District Judge:

Plaintiff Kelly Price brings this *pro se* action under 42 U.S.C. § 1983, alleging violations of her constitutional rights. As relevant here, Plaintiff sues NYPD Officers John Staines, Iselaine Guichardo Hermene Gildo Cruz, Lt. Nicholas Corrado, Lt. Raymond DeJesus, Officer Emmet, and Sgt. Shevitz.

By Order dated September 29, 2015, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*. To allow Plaintiff to effect service on the Defendants listed above through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each Defendant. The three known service addresses for these Defendants are:

- Officer John Staines
Midtown North Precinct
306 West 54th Street
New York, N.Y. 10019
- Officer Iselaine Guichardo Hermene Gildo Cruz
Midtown North Precinct
306 West 54th Street
New York, N.Y. 10019
- Lt. Nicholas Corrado
76th Precinct
191 Union Street
Brooklyn, N.Y. 11231

The Clerk of Court is instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon these Defendants.

Plaintiff must effect service within 90 days of the date the summons is issued. It is Plaintiff's responsibility to inquire of the Marshals Service as to whether service has been made and, if necessary, to request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). It is also Plaintiff's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the Fourth Amended Complaint, Plaintiff supplies sufficient information to permit the City of New York to identify Lt. Raymond DeJesus of "TB3"; Officer Emmet, "Badge No: 5191"; and Sgt. Shevitz.

It is therefore ordered that the City of New York shall ascertain the complete names of Lt. DeJesus, Officer Emmet, and Sgt. Shevitz, whom Plaintiff seeks to sue here, and the addresses where these Defendants may be served. The City of New York shall provide this information to Plaintiff and the Court within 60 days of the date of this Order. The Court will then deem the Complaint amended to name properly these Defendants and will direct service of process on these Defendants at the address or addresses provided by the City of New York.

CONCLUSION

The Clerk of Court is instructed to complete the USM-285 forms with the addresses for the Officer John Staines, Officer Iselaine Guichardo Hermene Gildo Cruz, and Lt. Nicholas Corrado and deliver all documents necessary to effect service to the U.S. Marshals Service.

This Court's *Valentin* Order supplements, but does not replace, the Court's prior, still-pending *Valentin* Order directed to the MTA. (Dkt. #72). The Court does here modify its service directives, however: The Clerk of Court need not complete a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for the MTA or for Lt. Raymond DeJesus of "TB3"; Officer Emmet, "Badge No: 5191"; and Sgt. Shevitz at this time. The Court will provide further direction regarding the service of the John and Jane Doe MTA Defendants and the NYPD Defendants Lt. DeJesus, Officer Emmet, and Sgt. Shevitz when the Court receives identifying information for these Defendants from the MTA and City of New York in response to the Court's two *Valentin* Orders.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 7, 2017
New York, New York



KATHERINE POLK FAILLA
United States District Judge

A copy of this Order was mailed by Chambers to:

Kelly Price
534 W. 187th Street
Apt. # 7
New York, NY 10033